United Nations CAT/C/SOM/QPR/1

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the initial report of Somalia*

Specific information on the implementation of articles 1–16 of the Convention

Articles 1 and 4

1. Please provide detailed information on the measures taken to adopt a definition of torture in domestic criminal law that is consistent with article 1 of the Convention and that includes appropriate penalties, taking into account the grave nature of acts of torture. Please include information on measures taken to explicitly criminalize attempts to commit torture and acts constituting complicity or participation in torture and to define them as acts of torture. If there is no such definition, please provide information on criminal or legislative provisions covering all cases of torture and the associated penalties. Has the State party taken steps to ensure that acts amounting to torture are not subject to any statute of limitations? Please indicate whether the Convention can be directly invoked before domestic courts. Please provide specific examples and statistical data on cases, if any, in which the provisions of the Convention have been invoked before the courts.

Article 2[1]

2. Please provide information on measures taken by the State party and on the procedures in place to ensure that:

(a) All detainees enjoy in law and in practice all legal safeguards from the outset of their deprivation of liberty, in particular the rights to have access to a lawyer, to request and receive an examination by an independent physician of their choice, to be informed of their rights and of the charges against them, to notify a relative or any other person of their choice of their arrest, and to be brought promptly before a judge,[2] regardless of the reasons for their arrest;

(b) Detention registers are kept scrupulously up to date;

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

[1] The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

[2] See A/HRC/33/64, para. 50.

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(c) Legal aid is available to the most disadvantaged.

3. Please indicate the measures taken to establish a national human rights institution that complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[3]

4. Please clarify whether military courts can try civilians and, if so, how and under what circumstances. Please indicate the measures taken to transfer all cases involving civilians from military to civilian courts.

5. Please provide information on the legislative, administrative and other measures taken to eliminate all forms of violence against women, including domestic and sexual violence.[4] Please provide information on the implementation of the bill on sexual offences and the national action plan to end sexual violence.[5] Please also provide information on the protection and support services available to victims of gender-based violence in the State party.[6] Please include statistical data, disaggregated by the victims' age and ethnic origin or nationality, on the number of complaints of gender-based violence and the investigations, prosecutions, convictions and punishments resulting from those complaints since the entry into force of the Convention for the State party.[7] Please inform the Committee about the measures taken to address concerns regarding the arbitration of cases of rape and other forms of sexual and gender-based violence under traditional justice mechanisms.[8]

6. Please comment on allegations of sexual exploitation and abuse by personnel of the Uganda Peoples' Defence Forces at and around the headquarters of the African Union Mission in Somalia, the Mission's base camp and the camp of the Burundian National Defence Forces contingent in Mogadishu.

7. Please provide up-to-date statistics on complaints, investigations, prosecutions, convictions and sentences imposed on perpetrators of criminal acts relating to harmful traditional practices, and on the assistance and compensation afforded to victims. In addition, please indicate the measures that the State party has taken to strengthen its efforts to combat harmful traditional practices, such as female genital mutilation/cutting[9] and early and/or forced marriage.[10]

8. Please provide up-to-date information, disaggregated by the victims' age, sex and ethnic origin or nationality, on the number of complaints, investigations, prosecutions and convictions and the sentences imposed in cases of human trafficking during the reporting period.[11] Please also provide additional information on:

(a) Any new legislation or measure that has been adopted to prevent, combat and criminalize human trafficking;

(b) The measures adopted to ensure that victims of human trafficking have access to effective remedies and repatriation;

(c) The signature of bilateral or subregional agreements with the countries concerned, including neighbouring countries, to prevent and combat human trafficking.

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[3] See A/HRC/25/45, paras. 5 and 23 (g); A/HRC/33/64, para. 45; A/HRC/32/12, paras. 10, 108 and 135.12, and A/HRC/20/16/Add.3, para. 39.

[4] See A/HRC/25/45, paras. 4–5, 10, 17 and 22; A/HRC/32/12, paras. 63, 125, 135.9, 135.22, 135.38, 135.43, 135.45, 135.61–135.62, 135.65–135.66 and 136.75–136.77; A/HRC/33/64, paras. 37–44; and A/HRC/20/16/Add.3, paras. 12, 17–18, 20, 25–27, 51, 55–56 and 68–69.

[5] See A/HRC/33/64, para. 39 and A/HRC/32/12, paras. 69, 106 and 135.44–135.45.

[6] See A/HRC/33/64, para. 38 and A/HRC/20/16/Add.3, paras. 10, 19, 47, 49 and 74–75.

[7] See A/HRC/25/45, paras. 5 and 23 (l) and (m) and A/HRC/20/16/Add.3, paras. 10, 24, 26 and 58–60.

[8] See A/HRC/33/64, paras. 66–67, 92 and 94 (t) and A/HRC/20/16/Add.3, paras. 21–22, 46 and 71–73.

[9] See A/HRC/25/45, paras. 5 and 23 (n); A/HRC/32/12, paras. 79, 85, 90, 125, 129, 136.75–136.76, 136.80–136.82 and 136.84; A/HRC/33/64, para. 37; and A/HRC/20/16/Add.3, paras. 11, 28–29 and 37.

[10] See A/HRC/33/64, para. 37 and A/HRC/20/16/Add.3, para. 23.

[11] See A/HRC/32/12, paras. 118 and 135.49 and A/HRC/20/16/Add.3, paras. 11 and 30–32.

Article 3

9. Please describe the measures taken during the period under review to ensure that no person is returned to a country where he or she would be in danger of torture.[12] Please indicate the procedure followed when a person invokes that right and whether individuals facing expulsion, return or extradition are informed that they have the right to seek asylum and to appeal a deportation decision. If so, please indicate whether such an appeal has a suspensive effect.

10. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please provide information on the steps taken to ensure the identification of victims of torture among asylum seekers. Please include information, disaggregated by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled during the period under review.[13] Please provide details on the grounds on which they were sent back, including the list of countries to which individuals were returned. Please provide updated information on the type of appeals mechanisms that may exist, any appeals that have been made and the outcome of those appeals.

11. Please indicate the number of refoulements, extraditions and expulsions carried out by the State party during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?

Articles 5–9

12. Please provide information on the legislative or other measures taken to implement article 5 of the Convention. Please indicate whether acts of torture are considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or the victim.

13. Please inform the Committee of any extradition agreements concluded with other States parties and specify whether the offences referred to in article 4 of the Convention are included as extraditable offences in such agreements.

14. Please clarify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecution concerning torture or ill-treatment. Please provide examples.

Article 10

15. Please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, prison staff, border guards and members of the military are fully aware of the provisions of the Convention and know that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted.[14] Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment, and, if so, please provide information on the methodology.

16. Please provide detailed information on the training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on detecting and documenting physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective

[12] See A/HRC/32/12, paras. 122, 135.99 and 135.103.

[13] See A/HRC/33/64, paras. 74–75.

[14] See A/HRC/32/12, paras. 13 and 136.62 and A/HRC/33/64, paras. 47 and 51.

Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol)?

Article 11

17. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or on any arrangements for custody, in particular ones that may have been introduced or revised since the entry into force of the Convention for the State party. Please indicate the frequency with which they are reviewed.

18. Please describe the measures taken to reduce prison overcrowding, including alternatives to imprisonment, both before and after trial.[15] Please provide statistical data, disaggregated by sex, age and ethnic origin or nationality, on the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please also provide information on the impact of the measures taken to improve the conditions of detention, health-care provision, water and bedding in prisons.[16]

19. Please provide information on efforts by the State party to meet the special needs of minors, women and persons with disabilities in detention. Please clarify the current policy regarding the use of solitary confinement and the application of means of restraint to prisoners. Please indicate the measures taken to ensure that men are separated from women, pretrial detainees from convicted prisoners, and adults from minors in all places of detention.[17]

20. Please provide information on the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, the number of complaints made in that regard and their outcomes. What preventive measures have been taken?

21. Please provide statistical data regarding deaths in custody during the period under consideration, disaggregated by place of detention, the sex, age and ethnicity or nationality of the deceased and cause of death. Please provide information on the manner in which those deaths were investigated, the results of those investigations and the measures taken to prevent similar cases from occurring in the future. Please indicate whether relatives of the deceased received compensation in any of the cases.

Articles 12–13

22. Please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of acts of torture and ill-treatment recorded during the reporting period. Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. Please provide examples of relevant cases and/or judicial decisions.[18]

23. Please indicate whether the State party plans to set up an independent and impartial body to investigate allegations of acts of torture and ill-treatment by members of the police, the security forces and prison personnel. Please also provide information on the measures taken to establish an effective complaints mechanism for persons deprived of their liberty.

Article 14

24. Please provide information on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to the victims of torture or their families during the period under review. That should include the number of requests for compensation that have been made, the number granted and the amounts ordered and actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to

[15] See A/HRC/33/64, para. 31.
[16] Ibid.
[17] Ibid, para. 47.
[18] Ibid, para. 50.

victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

25. Please provide information on the concrete measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please also provide information on all cases that have been dismissed by the courts owing to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

26. Please explain whether acts of cruel, inhuman or degrading treatment or punishment are defined or otherwise dealt with in domestic law.

27. Please provide information on the steps taken to protect journalists, members of civil society organizations and human rights defenders and to punish the perpetrators of attacks, acts of violence and intimidation directed at them.[19]

28. Please comment on allegations of ill-treatment and other abuses committed against people with actual or perceived mental health conditions or psychosocial disabilities in public and private mental health institutions.

29. Please comment on allegations of torture, ill-treatment and other abuses committed by law enforcement officers and staff at social services centres, youth rehabilitation centres and drug rehabilitation centres. Please include information on the outcome of the investigations and any disciplinary and/or criminal proceedings relating to such allegations.

30. Please indicate the measures taken to prevent and combat the corporal punishment of children.

31. Please provide information on the measures taken to ensure that all crimes and acts of violence that target persons on the basis of their sexual orientation or gender identity are properly and promptly investigated and prosecuted.[20]

Other issues

32. Please provide updated information on the measures taken by the State party to respond to threats of terrorism, and describe if and how those antiterrorism measures have affected human rights safeguards in law and in practice.[21] Please explain how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with the relevant Security Council resolutions, in particular resolution 1624 (2005). Please provide information on the relevant training given to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to antiterrorism measures in law and in practice; whether there have been any complaints of non-observance of international standards; and the outcome of those complaints.

General information on other measures and developments relating to the implementation of the Convention in the State party

33. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the entry into force of the Convention for the State party to implement the provisions of the Convention, including institutional developments, plans or programmes. Such measures may include institutional developments, plans or

[19] See A/HRC/25/45, paras. 4–5, 10–11 and 23 (m); A/HRC/32/12, paras. 24–25, 114, 129, 135.67–135.70, 135.93, 135.96, 135.104, 136.106–136.108 and 136.113–114; and A/HRC/33/64, paras. 56, 58–59 and 94 (h).

[20] See A/HRC/32/12, para. 136.95.

[21] See A/HRC/25/45, paras. 4–5 and A/HRC/33/64, para. 52.

programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.